



March 19, 2010

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SECRETARY'S BUREAU

James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
The Commonwealth Keystone Building  
400 North Street, 2<sup>nd</sup> Floor, P.O. Box 3265  
Harrisburg, PA 17120

**Re: Pennsylvania Public Utility Commission v. Philadelphia Gas Works**  
Docket No. R-2009-2139884 and P-2009-2097639

**TURN et al.'s Letter Brief in Response to the Joint Petition for Interlocutory Review of a Material Question and Approval of Partial Settlement**

Dear Secretary McNulty:

Community Legal Services, Inc. represents two consumer organizations, Tenant Union Representative Network ("TURN") and Action Alliance of Senior Citizens of Greater Philadelphia ("Action Alliance")(hereinafter collectively "TURN et al.") in the above-captioned matters. This letter registers TURN et al.'s opposition to the Joint Petition for Interlocutory Review of a Material Question and Approval of Partial Settlement.

While TURN et al. strongly support utility programs to further energy conservation, especially for low and lower income residential households, such programs should not be implemented until there has been a thorough regulatory review of the costs and benefits of those programs. In this multi-party proceeding, PGW, with the support of only one other party, rashly seeks to bypass that regulatory process, by requesting that the Commission provide interlocutory review of this question, not by holding hearings and developing the record, but by granting a Motion for Partial Summary Judgment.

However, as the answers of OCA, OTS and OSBA demonstrate, there are numerous genuine issues of material fact concerning the costs, benefits and design of both the Enhanced Low-Income Retrofit Program and the Comprehensive Residential Heating Retrofit Program. The grant of Summary Judgment pursuant to 52 Pa.Code § 5.102(d)(1) or § 5.102(d)(2) may only occur when, *inter alia*, it has been demonstrated that there is "no genuine issue as to a material fact." This is a very high standard because the Commission must view the pleadings and supporting documents "in the light most favorable to the non-moving party." Re MidAtlantic Cogen, Inc., Docket No. P-00940820, 86 Pa.P.U.C. 41, 1996 WL 944497 (Pa.P.U.C.). With the other opposing parties, TURN et al. submit that the Joint Petitioners have not met their

burden of satisfying this standard.

For these reasons, TURN et al. oppose the granting of the Joint Petition.

Respectfully submitted,

*Philip C. Bertocci*

PHILIP A. BERTOCCHI, ESQUIRE  
THU B. TRAN, ESQUIRE  
Attorneys for TURN et al.

cc: Certificate of Service  
Hon. Charles E. Rainey, Jr.

**Pennsylvania Public Utility Commission v. PGW**  
**Docket Nos. R-2009-2139884; P-2009-2097639**

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a true copy of the TURN's Letter-Brief upon the participants listed below in accordance with the requirements of 52 Pa.Code § 1.54 (relating to service by a participant).

**VIA FIRST CLASS MAIL AND BY E-MAIL**

Daniel Clearfield, Esquire  
Kevin J. Moody, Esquire  
Eckert Seamans Cherin & Mellott, LLC  
213 Market Street, 8<sup>th</sup> Floor  
Harrisburg, PA 17101  
[dclearfield@eckertseamans.com](mailto:dclearfield@eckertseamans.com)  
[kmoody@eckertseamans.com](mailto:kmoody@eckertseamans.com)

Todd Stewart, Esquire  
Hawke McKeon Sniscak & Kennard,  
P.O. Box 1778  
Harrisburg, PA 17105  
[TSSStewart@hmslegal.com](mailto:TSSStewart@hmslegal.com)

Johnnie Simms, Esquire  
Richard A. Kanaskie, Esquire  
Office of Trial Staff  
PA Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265  
[josimms@state.pa.us](mailto:josimms@state.pa.us)  
[rkanaskie@state.pa.us](mailto:rkanaskie@state.pa.us)

Darryl Lawrence, Esquire  
Jennedy S. Johnson, Esquire  
Office of Consumer Advocate  
5<sup>th</sup> Floor, Forum Place Bldg.  
555 Walnut Street  
Harrisburg, PA 17101-1921  
[dlawrence@paoca.org](mailto:dlawrence@paoca.org)  
[jjohnson@paoca.org](mailto:jjohnson@paoca.org)

Sharon Webb, Esquire  
Lauren Lepkowski, Esquire  
Office of Small Business Advocate  
Commerce Building, Suite 1102  
300 North 2<sup>nd</sup> Street  
Harrisburg, PA 17101  
[swebb@state.pa.us](mailto:swebb@state.pa.us)  
[llepkoski@state.pa.us](mailto:llepkoski@state.pa.us)

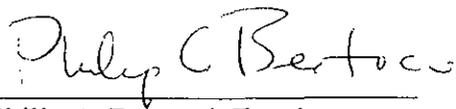
Charis Mincavage, Esquire  
Barry Naum, Esquire  
McNees Wallace Nurick  
100 Pine Street  
P.O. Box 1166  
Harrisburg, PA 17108-1166  
[cmincavage@mwn.com](mailto:cmincavage@mwn.com)  
[bnaum@mwn.com](mailto:bnaum@mwn.com)

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Philip L. Hinerman, Esquire  
Jill Guldin, Esquire  
Robert Clothier, Esquire  
Fox Rothschild LP  
2000 Market Street, 10<sup>th</sup> Floor  
Philadelphia, PA 19103-3291  
[phinerman@foxrothschild.com](mailto:phinerman@foxrothschild.com)  
[jguldin@foxrothschild.com](mailto:jguldin@foxrothschild.com)  
[rclothier@foxrothschild.com](mailto:rclothier@foxrothschild.com)

Adam H. Cutler, Esquire  
Public Interest Law Center of  
Philadelphia  
125 S. 9<sup>th</sup> Street, Suite 700  
Philadelphia, PA 19107  
[acutler@pilcop.org](mailto:acutler@pilcop.org)

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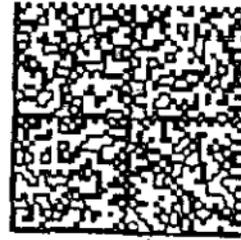
  

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Philip A. Bertocci, Esquire



COMMUNITY LEGAL SERVICES  
 OF PHILADELPHIA  
 1424 CHESTNUT STREET, PHILADELPHIA, PA 19102



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James J. McNulty, Secretary  
 Pennsylvania Public Utility Commission  
 The Commonwealth Keystone Building  
 400 North Street, 2<sup>nd</sup> Floor, P.O. Box 3265  
 Harrisburg, PA 17120

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